

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JUSTIN ALLEN DAVEY,

Plaintiff,

V.

PIERCE COUNTY COUNCIL, et al.,

Defendant.

Case No. C21-05068-LK-SKV

ORDER RE-NOTING PLAINTIFF'S
MOTION TO AMEND AND
ALLOWING SUPPLEMENTAL
BRIEFING

This is a 42 U.S.C. § 1983 prisoner civil rights action. Currently pending before the Court are Defendants' motion to dismiss, Dkt. 33, and Plaintiff's motion for leave to file an amended complaint, Dkt. 53.

By order dated October 28, 2021, the Court directed the parties to submit additional briefing with respect to Defendants' motion to dismiss. Dkt. 44. The Court directed Defendants to submit their supplemental brief in support of their motion to dismiss by November 17, 2021, that Plaintiff may file a response to Defendants' supplemental brief by November 29, 2021, and that Defendants could file a reply by December 3, 2021. *Id.* The Court also re-noted Defendants' motion to dismiss to December 3, 2021. *Id.* On November 3, 2021, Plaintiff moved for an extension of time to file his supplemental brief. Dkt. 45. By order dated November 23, 2021, the Court granted Plaintiff's motion and extended the deadline for Plaintiff's supplemental

1 brief to January 24, 2022, and re-noted Defendants' motion to dismiss to January 28, 2022. Dkt.
2 48.

3 On December 21, 2021, Plaintiff moved for leave to file an amended complaint. Dkt. 53.
4 The motion was noted for January 3, 2022. *Id.* Defendants filed a response opposing the motion
5 to amend primarily on the grounds that Plaintiff had failed to file a timely supplemental brief in
6 response to Defendants' motion to dismiss. Dkt. 55. However, as noted above, Plaintiff
7 requested and was granted until January 24, 2022, to file his supplemental brief. Thus,
8 Defendants are incorrect in asserting that Plaintiff failed to meet the filing deadline. Defendants
9 also argue that Plaintiff's motion to amend was improperly noted for January 3, 2022, instead of
10 the third Friday from the filing of the motion, and that this limited Defendants' time to respond
11 to Plaintiff's motion. Dkt. 55. In order to ensure that Defendants have had a sufficient
12 opportunity to respond to Plaintiff's motion, the Court hereby ORDERS:

- 13 (1) On or before **January 14, 2022**, Defendants may file a supplemental response to
14 Plaintiff's motion for leave to file an amended complaint, Dkt. 53.
- 15 (2) On or before **January 21, 2022**, Plaintiff may file a supplemental reply to his motion for
16 leave to file an amended complaint, Dkt. 53.
- 17 (3) The Clerk is directed to re-note Plaintiff's motion for leave to file an amended complaint,
18 Dkt. 53, to **January 21, 2022**.

19 The Clerk is directed to send copies of this order to the parties and to the Honorable
20 Lauren J. King.

21 Dated this 3rd day of January, 2022.

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S. KATE VAUGHAN
United States Magistrate Judge